

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>by</p> <p>TERRY GODDARD ATTORNEY GENERAL</p> <p>May 1, 2007</p>	<p>No. I07-007 (R06-005)</p> <p>Re: Signature Requirements for Nomination Petitions Under A.R.S. § 16-322(A)(12)</p>
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TO: The Honorable Olivia Cajero Bedford
Arizona House of Representatives

Question Presented

Section 16-322(A)(12), Arizona Revised Statutes (“A.R.S.”), requires that a candidate’s nomination petition for a governing body of a special district contain signatures of qualified electors who are qualified to vote for the candidate “equal to at least one-half of one per cent of the vote in the special district, but not more than two hundred fifty and not fewer than five signatures.” You have asked how many petition signatures are required if one-half of one per cent of the number of qualified electors who are qualified to vote for the candidate exceeds 250 voters.

Summary Answer

If one-half of one percent of the qualified electors in the special district exceeds 250 voters, a candidate need only collect 250 signatures to satisfy the requirements of A.R.S. § 16-322(A)(12).

Analysis

Section 16-322, A.R.S., provides for the number of signatures required on nomination petitions for various public offices. This statute requires that nomination petitions for candidates for a governing body of a special district shall be signed:

by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing *equal to at least one-half of one per cent of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.*

A.R.S. § 16-322(A)(12) (emphasis added).

The question here concerns the meaning of the phrase “equal to at least one-half of one per cent of the vote . . . but not more than two hundred fifty.” The language of a statute is “the best and most reliable indicator of its meaning.” *N. Valley Emergency Specialists, L.L.C. v. Santana*, 208 Ariz. 301, 303, ¶9, 93 P.3d 501, 503 (2004) (quoting *State v. Williams*, 175 Ariz. 98, 100, 854 P.2d 131, 133 (1933)). Plain meaning is applied to statutory language if it is clear and unambiguous. *Parrot v. Daimler Chrysler Corp.*, 212 Ariz. 255, 257, ¶7, 130 P.3d 530, 532 (2006). Section 16-322(A)(12), A.R.S., requires that the number of signatures collected for nomination petitions is “equal to at least one-half of one per cent of the vote in the special district *but* not more than two hundred fifty [signatures] and not fewer than five signatures.” (Emphasis added.)

In the statute, the conjunction “but” is used as a word of limitation or exception. The word “but” connects two clauses of the sentence in such a way that it creates an exception to the clause preceding it. Therefore, A.R.S. § 16-322(A)(12) requires that the number of signatures for candidate nomination petitions is never less than five but never more than 250. The phrase “at least one-half of one per cent of the vote in the special district” determines the number of signatures from five to 250 that a candidate must collect in order to comply with the statute.

In some instances, “one-half of one per cent of the vote in the special district” will be more than 250 or less than five. To have a concrete example of how the statute functions, your

opinion request asked about the signature requirements in a special district with 60,000 qualified electors.

This question assumes that “the vote” in the phrase “at least one-half of one per cent of *the vote* in the special district,” A.R.S. §16-322(A)(12) (emphasis added), refers to the number of qualified electors in the special district. Although this assumption is correct, some additional analysis of the statute is necessary to explain why. As subsection B of 16-322 explains, “[t]he basis of percentage in each instance referred to in subsection A of this section, except in cities, town and school districts, shall be the number of voters registered in the designated party of the candidate as reported on March 1 of the year in which the general election is held.”

A review of the legislative history shows that the phrase “the vote” is a remnant from an earlier version of the statute that based the signature requirement on votes in an earlier election. The Legislature added the relevant language in 1986 Arizona Session Laws, Chapter 320 (H.B. 2362). That legislation provided that the number of signatures of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing must be “equal to at least *one per cent of the vote* in the special district but not more than two hundred fifty and not fewer than five signatures.” *Id.* ¶13 (codified at A.R.S. § 16-322(A)(11) (1986)) (emphasis added). The legislation also amended A.R.S. § 16-322(B) to direct that

[t]he basis of percentage in each instance referred to in subsection A of this section, except in cities, towns, and school districts, shall be the number of voters registered in the designated party of the candidate as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. . . . *In special districts, other than school districts, the basis of percentage shall be the highest vote cast for a candidate for the governing body at the last election.*

Id. (emphasis added).

In 1993, the Legislature reduced the percentage of the vote required from one per cent to one-half of one per cent, and eliminated the specific language for special districts in subsection B. *See* 1993 Ariz. Sess. Laws Ch. 98, § 23. As a result of the 1993 amendments, A.R.S. § 16-322(B) now bases all signature requirements, except for those in cities, towns, and school

districts, on the number of voters registered in the designated party of the candidate as reported pursuant to A.R.S. § 16-168(G) on March 1 of the year in which the general election is held.¹

To return to your example of a district with 60,000 qualified electors, “[a]t least one-half of one per cent” of the 60,000 qualified electors is 300; however, since the statute caps the signature requirement at 250, the candidate need only obtain 250 signatures to qualify for the ballot.

Conclusion

Section 16-322(A)(12), A.R.S., requires candidates for a governing body of a special district to obtain a minimum of five signatures and a maximum of 250 signatures. Within this range, the signatures must be from qualified electors (who are qualified to vote for the candidate whose nomination petition they are signing) and must number at least one-half of one per cent of the number of voters registered in the designated party of the candidate as reported on March 1 of the year in which the general election is held.

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¹ Because special district elections are nonpartisan, there is no “designated party” for candidates in such elections. *See* A.R.S. § 16-226(B).